

[REDACTED]

[REDACTED]

[REDACTED]

APR 30 1981

[REDACTED]

Gentlemen:

Your application for exemption from Federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code has been considered.

Data submitted discloses that your organization was incorporated on [REDACTED] under the provisions of the Statutes of the State of [REDACTED] as a nonprofit corporation. Your purposes, as stated in the Articles of Incorporation, are "to engage in any lawful activities authorized by [REDACTED] of the [REDACTED] Statutes, and to promote the development, improvement and use of the subdivision known as [REDACTED], located in [REDACTED]."

Information you have submitted indicates that the only activity sponsored by your organization is the maintaining of a [REDACTED]-acre plot of land, which is owned by the association, used by members only; and the maintenance of a small public park for the Village of [REDACTED]. You state the reason the public is not allowed to use your [REDACTED]-acre plot of land is because of "insurance problems". You have installed "no trespassing" signs around the [REDACTED]-acre area so the public does not enter. Your members use this area for hiking purposes primarily.

Membership dues of \$[REDACTED] per year is paid by all members. Your membership consists of all of the owners of lots in [REDACTED].

Section 501(c)(3) of the Internal Revenue Code exempts from Federal income tax corporations and any community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(b) of the Income Tax Regulations states that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes indicated in Section 501(c)(3) of the code.

Section 1.501(c)(3)-1(c) of the Income Tax Regulations states that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one

[REDACTED]

[REDACTED]

or more of the exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose of Section 501(c)(3).

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for Section 501(c)(3) purposes unless it serves a public rather than a private interest.

Your organization does not meet either the organizational or the operational tests under Section 501(c)(3). Your Articles of Incorporation do not limit the purposes of your organization to Section 501(c)(3) purposes and do expressly empower you to engage in a substantial manner in activities which are not in furtherance of Section 501(c)(3) purposes. More than an insubstantial part of your activities are not in furtherance of the purposes of Section 501(c)(3), because you restrict the use of your [REDACTED]-acre plot of land to the recreational pursuits of members only, and do not allow the public to use your land. Private interests are thereby being served.

Accordingly, it is held that you are not entitled to exemption from Federal income tax under the provisions of Section 501(c)(3) of the Internal Revenue Code, and your request for exempt status under that section is denied.

Section 528 provides for the filing of income tax returns of owners of condominiums, cooperative apartments, and residential real estate management associations organized and operated to provide for the acquisition, construction; management and maintenance; and care of association property with respect to a subdivision, development or similar area used by individuals for residences. Organizations which file Federal income tax returns under this section of the code do not receive a special determination of tax exempt status, but elect each year to file Form 1120-H, U.S. Income Tax Return for Homeowners' Association, in lieu of Form 1120 for the taxable year of the organization. Therefore, we are making no determination with respect to the applicability of Section 528 to your organization.

If you do not agree with these conclusions, you may request Appeals Office consideration. To do this, you must submit to the District Director within 30 days from the date of this letter, a statement of facts, law, and arguments, in duplicate, which will clearly set forth your position. You also must state whether you wish an Appeals Office Conference. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal

Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

On final determination, copies of this letter will be forwarded to appropriate State officials in accordance with Section 6104(c) of the Internal Revenue Code.

If we do not hear from you within the time specified, this communication will become our determination in the matter.

Very truly yours,


District Director

Enclosure
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